

***** NOT FOR PUBLICATION *****

NO. 25612

IN THE SUPREME COURT OF THE STATE OF HAWAII

ASSOCIATION OF APARTMENT OWNERS OF KALAMA TERRACE,
Plaintiff/Counterclaim Defendant-Appellee,

vs.

AVANELL M. HAMILTON, Defendant/Cross-Claim Defendant-Appellant,

GE CAPITAL HAWAII, INC., a Hawaii corporation;
DEPARTMENT OF TAXATION, STATE OF HAWAII; and REAL PROPERTY
DIVISION, DEPARTMENT OF FINANCE, COUNTY OF MAUI,
Defendants/Cross-Claim Defendants,

and

ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC., a Hawaii
corporation, Defendant/Counterclaimant Cross-Claimant-Appellee,

vs.

RENEE U. ELABAN-NORTH, CHARLENE GREENE and JOYCELYN W. UNCIANO,
Additional Cross-Claimant Defendants-Appellants,

JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10; DOE ENTITIES 1-10; and DOE GOVERNMENTAL UNITS
1-10, Additional Cross-Claim Defendants.

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 98-0135)

ORDER GRANTING MOTION TO
DISMISS APPEAL FOR LACK OF JURISDICTION

(By: Moon, C.J., Levinson and Nakayama, JJ.,
and Circuit Judge Pollack, in place of Acoba, J., unavailable,
and Circuit Judge Masuoka, assigned by reason of vacancy)

Upon consideration of defendant-appellee Associates
Financial Services Company of Hawai'i, Inc's motion to dismiss
appeal for lack of jurisdiction, the papers in support and in
opposition and the record, it appears that notice of appeal from

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the judgments entered on December 24, 2002 was filed by appellants on January 27, 2003, but the thirty-day period for appeal expired on January 23, 2003. See HRAP 4(a)(1). The legal holidays on December 25, 2002, January 1, 2003 and January 20, 2003 were not excluded from computing the thirty-day period for filing the notice of appeal inasmuch as the exclusion of intervening holidays from the computation of time applies only for filing deadlines of less than seven days. See HRAP 26(a). Thus, the notice of appeal filed on January 27, 2003 is untimely and we lack jurisdiction over this appeal. See HRAP 26(b); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

IT IS HEREBY ORDERED that the motion to dismiss appeal is granted and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 15, 2003.